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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/707,865 | 11/07/2000 | Bengt Ebbeson | 30882US1 | 1443 |

116 7590 12/18/2002

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CLEVELAND, OH 44114-1484

EXAMINER

ATKINSON, CHRISTOPHER MARK

| | |
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| ART UNIT | PAPER NUMBER |
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3743

DATE MAILED: 12/18/2002

14

Please find below and/or attached an Office communication concerning this application or proceeding.



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| EXAMINER |
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14

DATE MAILED:

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

☒ Responsive to communication(s) filed on 10/24/02

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire _____ month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-19 is/are pending in the application.

Of the above, claim(s) 8-12, 15+17-19 is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-7, 13-14+16 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of Reference Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

- SEE OFFICE ACTION ON THE FOLLOWING PAGES -

Art Unit: 3743

Response to Amendments and RCE

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Claims 8-12, 15 and 17-19 remain withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 5.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claims 1-7, 13-14 and 16 are rejected under 35 U.S.C. § 103 as being unpatentable over Labranque in view of Fujitani et al. The patent of Labranque discloses all the claimed features of the invention with the exception of the bodies being profiled bodies.

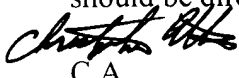
The document of Fujitani et al. discloses that it is known to have profiled bodies forming circular passageways for the purpose of increasing the surface absorption area which improves the

Art Unit: 3743

heat exchange efficiency of the system. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to employ in Labranque the bodies being profiled bodies and forming circular passageways for the purpose of increasing the surface absorption area which improves the heat exchange efficiency of the system as disclosed in Fujitani et al. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the specifically claimed material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. The bodies being double T-shaped is considered to be an obvious design choice in view of which does not solve any stated problem or produce any new and/or unexpected result.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Atkinson whose telephone number is (703) 308-2603.



CHRISTOPHER ATKINSON
PRIMARY EXAMINER

C.A.

December 16, 2002